

1 Karma M. Guilianelli (SBN 184175)
karma.giulianelli@bartlitbeck.com

2 **BARTLIT BECK LLP**
1801 Wewetta St., Suite 1200
3 Denver, Colorado 80202
Telephone: (303) 592-3100

4 Hae Sung Nam (*pro hac vice*)
5 hnam@kaplanfox.com
6 **KAPLAN FOX & KILSHEIMER LLP**
850 Third Avenue
7 New York, NY 10022
Tel.: (212) 687-1980

8 *Co-Lead Counsel for the Proposed Class*
9 *in In re Google Play Consumer Antitrust*
10 *Litigation*

11 Steve W. Berman (*pro hac vice*)
steve@hbsslaw.com
12 **HAGENS BERMAN SOBOL SHAPIRO LLP**
1301 Second Ave., Suite 2000
12 Seattle, WA 98101
Telephone: (206) 623-7292

14 Eamon P. Kelly (*pro hac vice*)
ekelly@sperling-law.com
15 **SPERLING & SLATER P.C.**
55 W. Monroe, Suite 3200
16 Chicago, IL 60603
Telephone: 312-641-3200

17 *Co-Lead Counsel for the Proposed Class in In re*
18 *Google Play Developer Antitrust Litigation and*
19 *Attorneys for Pure Sweat Basketball, Inc.*

20 Bonny E. Sweeney (SBN 176174)
bsweeney@hausfeld.com
21 **HAUSFELD LLP**
600 Montgomery Street, Suite 3200
22 San Francisco, CA 94104
Telephone: (415) 633-1908

23 *Co-Lead Counsel for the Proposed Class in In re*
24 *Google Play Developer Antitrust Litigation and*
25 *Attorneys for Peekya App Services, Inc.*

26 [Additional counsel appear on signature page]

Paul J. Riehle (SBN 115199)
paul.riehle@faegredrinker.com
**FAEGRE DRINKER BIDDLE &
REATH LLP**
Four Embarcadero Center, 27th Floor
San Francisco, CA 94111
Telephone: (415) 591-7500

Christine A. Varney (*pro hac vice*)
cvarney@cravath.com
CRAVATH, SWAINE & MOORE LLP
825 Eighth Avenue
New York, New York 10019
Telephone: (212) 474-1000

Counsel for Plaintiff Epic Games, Inc. in
Epic Games, Inc. v. Google LLC et al.

Brendan P. Glackin (SBN 199643)
bglackin@agutah.gov
**OFFICE OF THE UTAH ATTORNEY
GENERAL**
160 E 300 S, 5th Floor
PO Box 140872
Salt Lake City, UT 84114-0872
Telephone: 801-366-0260

Counsel for Utah

Glenn D. Pomerantz (SBN 112503)
glenn.pomerantz@mto.com
MUNGER, TOLLES & OLSON LLP
350 South Grand Avenue, Fiftieth Floor
Los Angeles, California 90071
Telephone: (213) 683-9100

Brian C. Rocca (SBN 221576)
brian.rocca@morganlewis.com
MORGAN, LEWIS & BOCKIUS LLP
One Market, Spear Street Tower
San Francisco, CA 94105-1596
Telephone: (415) 442-1000

Daniel M. Petrocelli, Bar No. 97802
dpetrocelli@omm.com
O'MELVENY & MYERS LLP
1999 Avenue of the Stars, 7th Fl.
Los Angeles, CA 90067-6035
Telephone: (310) 553-6700

Counsel for Defendants Google LLC et al.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

**IN RE GOOGLE PLAY STORE
ANTITRUST LITIGATION**

Case No. 3:21-md-02981-JD

THIS DOCUMENT RELATES TO:

**JOINT STATEMENT RE: CASE
SCHEDULE AND TRIAL STRUCTURE**

Epic Games Inc. v. Google LLC et al., Case
No. 3:20-cv-05671-JD

Judge: Hon. James Donato

*In re Google Play Consumer Antitrust
Litigation*, Case No. 3:20-cv-05761-JD

*In re Google Play Developer Antitrust
Litigation*, Case No. 3:20-cv-05792-JD

State of Utah et al. v. Google LLC et al., Case
No. 3:21-cv-05227-JD

Pursuant to this Court's instruction at the conclusion of the December 16, 2021 status conference, the parties in the above-captioned MDL action ("the Parties"), by and through their undersigned counsel, submit this Joint Statement Regarding Case Schedule and Trial Structure.

I. CASE SCHEDULE

Based on the guidance provided by the Court at the last status conference, the Parties have met and conferred regarding a modified schedule for this MDL. The Parties jointly propose the case schedule attached as Exhibit A and set forth in the proposed order accompanying this filing based on a proposed trial date of January 30, 2023. As advised by the Court, this proposed schedule separates the *Daubert* and class certification motion hearings, separates the *Daubert* and dispositive motion hearings, sets deadlines for joint filings in advance of the concurrent expert proceedings and sets the hearing for dispositive motions two months before the final pretrial conference.

1 **II. TRIAL STRUCTURE**

2 The Parties have met and conferred regarding the structure of any trials. As the
3 Court has previously noted, 7/22/21 Tr. 7:22-8:7, the Complaints assert substantially similar
4 theories of antitrust liability. Given the Court's guidance that the "optimal result" would be to
5 have "one jury decide[] in one sitting the core antitrust issues," *see* 7/22/21 Tr. 29:03-24, the
6 Parties are planning to proceed accordingly with a combined jury trial on the core antitrust liability
7 issues common to the four cases.

8 With respect to the issue of damages, the Consumer Plaintiffs, Developer Plaintiffs,
9 State Plaintiffs, and Google Defendants respectfully suggest that the Court defer ruling further on
10 trial structure until after the close of expert discovery on August 19, 2022.¹ Whether there should
11 be a separate damages phase, and the structure of that phase, will be informed by factual evidence
12 still to be obtained in discovery, expert reports and depositions, motions practice, and other
13 developments that may occur over the next several months.

14 Likewise, with respect to Google's counterclaims against Epic, Epic and Google
15 respectfully suggest that the Court defer ruling further on trial structure. Whether evidence and
16 arguments about Google's counterclaims against Epic should be part of a liability trial in which all
17 Plaintiffs are present, or should instead be addressed during a separate phase or trial, will be
18 informed by factual evidence still to be obtained in discovery, expert reports and depositions,
19 motions practice, and other developments that may occur over the next several months.

20 The Parties jointly propose that they meet and confer on these issues promptly
21 following the close of expert discovery (which is set for August 19, 2022 under the schedule
22 jointly proposed by the Parties), and then meet with the Court to further discuss trial structure and
23 the length of any trials² with the benefit of a more developed record.

24
25 ¹ Plaintiff Epic has not asserted any claim for damages against Google and has no objection to the
26 other Parties' suggestion that the Court defer ruling on the trial structure as it relates to the other
Plaintiffs' damages claims.

27 ² At the December 16, 2021 status conference, the Court indicated that its preliminary view was
28 that the core antitrust liability issues could be tried over a three-week period with approximately
20-25 hours allotted to Plaintiffs and 20-25 hours allotted to Google. At this stage, Plaintiffs
anticipate needing more than three weeks to try the core antitrust liability issues due to the

1 Dated: January 14, 2022

CRAVATH, SWAINE & MOORE LLP
Christine Varney (*pro hac vice*)
Katherine B. Forrest (*pro hac vice*)
Gary A. Bornstein (*pro hac vice*)
Timothy G. Cameron (*pro hac vice*)
Yonatan Even (*pro hac vice*)
Lauren A. Moskowitz (*pro hac vice*)
Justin C. Clarke (*pro hac vice*)
M. Brent Byars (*pro hac vice*)

6 FAEGRE DRINKER BIDDLE & REATH LLP
Paul J. Riehle (SBN 115199)

8 Respectfully submitted,

9 By: /s/ Yonatan Even
Yonatan Even

10 *Counsel for Plaintiff Epic Games, Inc.*

12 Dated: January 14, 2022

BARTLIT BECK LLP
Karma M. Giulianelli

14 KAPLAN FOX & KILSHEIMER LLP
Hae Sung Nam

15 Respectfully submitted,

16 By: /s/ Karma M. Giulianelli
Karma M. Giulianelli

18 *Co-Lead Counsel for the Proposed Class in
In re Google Play Consumer Antitrust
Litigation*

20 Dated: January 14, 2022

PRITZKER LEVINE LLP
Elizabeth C. Pritzker

22 Respectfully submitted,

23 By: /s/ Elizabeth C. Pritzker
Elizabeth C. Pritzker

25 *Liaison Counsel for the Proposed Class in
In re Google Play Consumer Antitrust
Litigation*

27 _____
28 complexity and scope of the issues and the anticipated number of fact and expert witnesses.
Accordingly, Plaintiffs respectfully request that the Court revisit the appropriate length of trial at a
later stage of the case.

1 Dated: January 14, 2022

HAGENS BERMAN SOBOL SHAPIRO LLP
Steve W. Berman
Robert F. Lopez
Benjamin J. Siegel

SPERLING & SLATER PC
Joseph M. Vanek
Eamon P. Kelly
Alberto Rodriguez

Respectfully submitted,

7 By: /s/ Steve W. Berman
Steve W. Berman

*Co-Lead Interim Class Counsel for the
Developer Class and Attorneys for Plaintiff
Pure Sweat Basketball*

11 Dated: January 14, 2022

HAUSFELD LLP
Bonny E. Sweeney
Melinda R. Coolidge
Katie R. Beran
Scott A. Martin
Irving Scher

Respectfully submitted,

16 By: /s/ Bonny E. Sweeney
Bonny E. Sweeney

*Co-Lead Interim Class Counsel for the
Developer Class and Attorneys for Plaintiff
Peekya App Services, Inc.*

20 Dated: January 14, 2022

OFFICE OF THE UTAH ATTORNEY
GENERAL
Brendan P. Glackin

Respectfully submitted,

23 By: /s/ Brendan P. Glackin
Brendan P. Glackin

Counsel for Utah

1 Dated: January 14, 2022

MORGAN, LEWIS & BOCKIUS LLP
Brian C. Rocca
Sujal J. Shah
Michelle Park Chiu
Minna L. Naranjo
Rishi P. Satia

2
3
4 Respectfully submitted,

5
6 By: /s/ Brian C. Rocca
Brian C. Rocca

7 *Counsel for Defendants Google LLC et al.*
8

9 Dated: January 14, 2022

O'MELVENY & MYERS LLP
Daniel M. Petrocelli
Ian Simmons
Benjamin G. Bradshaw
Stephen J. McIntyre

10
11
12 Respectfully submitted,

13 By: /s/ Daniel M. Petrocelli
Daniel M. Petrocelli

14 *Counsel for Defendants Google LLC et al.*
15

16 Dated: January 14, 2022

MUNGER, TOLLES & OLSON LLP
Glenn D. Pomerantz
Kyle W. Mach
Kuruvilla Olasa
Justin P. Raphael
Emily C. Curran-Huberty
Jonathan I. Kravis
Marianna Y. Mao

17
18
19
20 Respectfully submitted,

21
22 By: /s/ Glenn D. Pomerantz
Glenn D. Pomerantz

23 *Counsel for Defendants Google LLC et al.*
24
25
26
27
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

/s/ Kuruvilla Olsa
Kuruvilla Olsa

Exhibit A

| ACTIVITY | DATE |
|---|---|
| Status Conferences | |
| Joint status conference | March 17, 2022, at 11 a.m. (by remote access) |
| Joint status conference | June 16, 2022, at 11 a.m. (by remote access) |
| Fact Discovery Cut-off | April 18, 2022 |
| Class Certification | |
| Plaintiffs' Class Certification Motion | March 3, 2022 |
| Plaintiffs' Class Certification expert report | March 3, 2022 |
| Google's Class Certification Opposition | April 5, 2022 |
| Google's Class Certification Expert Report | April 5, 2022 |
| Google's <i>Daubert</i> Motion(s) re Class Certification Report | April 5, 2022 |
| Plaintiffs' Class Certification Reply and <i>Daubert</i> Motion | April 29, 2022 |
| Plaintiffs' Class Certification Reply Expert Report | April 29, 2022 |
| Plaintiffs' Opposition to <i>Daubert</i> Motion | April 29, 2022 |
| Google's <i>Daubert</i> Reply | May 6, 2022 |
| Google's Motion re any Class Certification Reply Expert Report | May 6, 2022 |
| Plaintiffs' Response to Google's Motion re Reply Expert Report | May 13, 2022 |
| Concurrent Expert Proceeding Joint Submission | May 13, 2022 |
| Concurrent Expert Proceedings/ <i>Daubert</i> Hearing | May 19, 2022 |
| Class Certification Hearing | May 26, 2022 |
| Merits Experts | |
| Plaintiffs' Merits Expert Reports | May 27, 2022 |

| ACTIVITY | DATE |
|--|--------------------|
| Google's Merits Expert Reports | July 1, 2022 |
| Plaintiffs' Merits Replies | July 29, 2022 |
| Expert Discovery Cut-Off | August 19, 2022 |
| Dispositive/Daubert Motions | |
| Dispositive/Daubert Motions | August 26, 2022 |
| Dispositive/Daubert Motion Responses | September 23, 2022 |
| Dispositive/Daubert Motion Replies | October 14, 2022 |
| Concurrent Expert Proceeding Joint Statement | October 21, 2022 |
| Concurrent Expert Proceeding/Daubert Hearing | November 4, 2022 |
| Dispositive Motion Hearing | November 17, 2022 |
| Trial | |
| Serve (but not file) Motions in Limine | November 23, 2022 |
| Serve (but not file) opposition to Motions in Limine | December 12, 2022 |
| Pretrial Filings Due Date | December 16, 2022 |
| Pre-Trial Conference | January 19, 2023 |
| Trial Date | January 30, 2023 |